

TAB 10

Volume: I
Pages: 1-109
Exhibits: 1-3

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

C.A. No. 04-10131

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HEATHER KIERNAN,
Plaintiff

vs.

ARMORED MOTOR SERVICE OF AMERICA, INC. and
FRANCESCO CIAMBRIELLO,
Defendants

- - - - - x

DEPOSITION OF CHRISTOPHER W. ABREU
Thursday, June 2, 2005 - 10:15 a.m.

MORGAN BROWN & JOY, LLP
200 State Street - 11th Floor
Boston, Massachusetts

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Reporter: Maureen J. Manzi, CSR

<p style="text-align: right;">Page 74</p> <p>1 A. Correct.</p> <p>2 Q. Are you positive it was I'm not going in</p> <p>3 there as opposed to I'm not going in there now let's</p> <p>4 say?</p> <p>5 MR. McLEOD: Objection.</p> <p>6 A. No. From what I recall, it was definitely</p> <p>7 "I'm not going in there."</p> <p>8 Q. And what was the response?</p> <p>9 A. I did not hear any response from what I</p> <p>10 remember.</p> <p>11 Q. Was there a response?</p> <p>12 A. I don't think so.</p> <p>13 Q. I guess what I'm trying to figure out is.</p> <p>14 Was that the only statement that was made or was</p> <p>15 that simply a statement that somehow you were able</p> <p>16 to hear but there was other communication between</p> <p>17 the two of them that wasn't being picked up on the</p> <p>18 audio?</p> <p>19 A. It's really tough to say because the audio</p> <p>20 was so bad. I heard that statement because it was</p> <p>21 directly under the camera and it picked up that</p> <p>22 statement as clear as a bell. Whether there was</p> <p>23 something that was said at a point further from the</p> <p>24 camera, there may have been. I did not hear it on</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Now, also during the questions that Bill was</p> <p>2 asking you, I thought you said that at some point on</p> <p>3 one of the videos you saw Heather Kiernan outside of</p> <p>4 AMSA?</p> <p>5 A. Yes.</p> <p>6 Q. And I tried to get down the quote that I</p> <p>7 thought you said, and you said, when they were</p> <p>8 outside in the parking lot and she came back inside?</p> <p>9 A. Correct.</p> <p>10 Q. Who did you see outside in the parking lot?</p> <p>11 A. From what I recall looking at -- because</p> <p>12 basically like I said, I was just trying to get</p> <p>13 whether there was anything compelling on our case in</p> <p>14 the future that would be helpful if we had to try</p> <p>15 the case. So I wrote down some of these aspects</p> <p>16 that I found compelling. However, she was outside</p> <p>17 in the parking lot with the defendant I remember,</p> <p>18 okay, for a period of time. I remember the</p> <p>19 defendant went back in. From what I remember,</p> <p>20 somebody actually came to that location and met with</p> <p>21 the alleged victim. Conversation took place, and</p> <p>22 she ultimately went back into the building.</p> <p>23 Q. "She" being Heather Kiernan?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 75</p> <p>1 the tape.</p> <p>2 Q. And do you recall having a conversation with</p> <p>3 David Ardito and the security consultant who was</p> <p>4 there, you know, along the lines of did you hear</p> <p>5 that?</p> <p>6 A. Yeah.</p> <p>7 Q. And was there acknowledgment on the part of</p> <p>8 Mr. Ardito confirming that he also heard that?</p> <p>9 A. Yes.</p> <p>10 Q. And what about from the security consultant?</p> <p>11 A. I'm not sure. There may have been.</p> <p>12 Q. Did you rewind the tape and listen to it</p> <p>13 again just to confirm that you heard it correctly?</p> <p>14 A. I think we did.</p> <p>15 Q. Do you recall how many times you listened to</p> <p>16 it or rebacked up for that portion?</p> <p>17 A. No more than once or twice.</p> <p>18 Q. And as you sit here today, you have a clear</p> <p>19 recollection that Mr. Ardito agreed with some</p> <p>20 statement that you made summarizing what it was that</p> <p>21 Heather Kiernan said --</p> <p>22 A. Yes.</p> <p>23 Q. -- or what -- it was a female voice?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. And what did the other person who had come</p> <p>2 to the facility and spoken to Heather Kiernan do?</p> <p>3 A. They left.</p> <p>4 Q. Did you see them leave on the video?</p> <p>5 A. I don't recall, but I believe so.</p> <p>6 Q. When you saw Heather Kiernan and Francesco</p> <p>7 Cambriello out in the parking lot, do you recall</p> <p>8 where they were in the parking lot?</p> <p>9 A. Within close enough proximity where you</p> <p>10 actually saw them on the videotape, and I believe</p> <p>11 they were smoking.</p> <p>12 Q. Could you tell whether they were talking?</p> <p>13 A. I believe they were.</p> <p>14 Q. Do you recall the time that was on the</p> <p>15 video?</p> <p>16 A. No, I do not.</p> <p>17 Q. Do you recall whether or not there was a</p> <p>18 time on the video?</p> <p>19 A. Yes, there was.</p> <p>20 Q. Understanding that you don't recall the</p> <p>21 specific time, do you recall whether or not the time</p> <p>22 reflected a time after the 17:41:32 time where you</p> <p>23 wrote down that you heard the "I'm not going in</p> <p>24 there" and you saw Mr. Ciambriello and her walking</p>

Page 86

1 Q. I apologize because you probably did go over
2 this. But what is that a reference to?

3 A. I have no idea.

4 Q. So as best you could tell from what you
5 observed on tape F, these two individuals were in
6 the office that you observed them going into for
7 approximately seven minutes?

8 A. Correct.

9 Q. When you observed them leaving the office,
10 could you see facial expressions?

11 A. No.

12 Q. Why don't we mark this as 3.

13 (Marked, Exhibit 3, Working Detectives
14 Tape 6/20/2003.)

15 Q. And just for the record I'm going to
16 identify it, marked as Exhibit 3 a tape. And I'll
17 represent that this is a copy of a tape that I had
18 made from a tape that was provided to me from Mr.
19 McLeod which he received from the Bristol D.A.'s.

20 MR. McLEOD: No. By Subpoena from the
21 Attleboro Police Department.

22 Q. By Subpoena from the Attleboro Police
23 Department. It's one of the four tapes that was
24 provided in discovery in this case. Of the four

Page 87

1 tapes, it's the one that says Working Detective's
2 Tapes. Chris, I'm going to show you hopefully --
3 and just so the record's clear. I'm showing Chris a
4 tape, that particular tape. It's pretty short,
5 isn't it?

6 MR. McLEOD: Yes.

7 Q. Why don't we watch the whole thing.
8 (Videotape being played.)

9 Q. I'm going to stop it right there and let me
10 ask you. At 17:32 did you observe two individuals
11 walking somewhere?

12 A. Yes.

13 Q. And would those two individuals that you saw
14 on the tape when you were out at AMSA reviewing the
15 tape?

16 A. Yes.

17 Q. And was that the same viewing that you saw
18 while you were at AMSA of the two individuals
19 walking?

20 A. No.

21 Q. Did you see what's on this particular tape
22 of those two individuals walking --

23 A. Yes.

24 Q. -- while you were at AMSA? That was a

Page 88

1 really bad question. Let me ask that again. What
2 we just observed on the tape of those two
3 individuals walking down a hallway, did you observe
4 that particular view of them?

5 A. I don't recall if I did or not.

6 Q. You saw in this particular one that the tape
7 looked like it was from the front of them?

8 A. Correct.

9 Q. And your recollection is that what you saw
10 was from the back?

11 A. Correct.

12 Q. Perhaps leading you to believe that it was
13 at a different angle?

14 A. Yeah, exactly.

15 Q. In terms of the quality of the clarity of
16 what you were seeing, how would you compare what we
17 just saw to what you saw?

18 A. As far as that particular portion where
19 they're walking, the clarity was the same, but it
20 was a camera looking at them from behind.

21 Q. Was this particular camera that viewed them
22 walking on this videotape that we've marked as
23 Exhibit 3 about the same distance away as the camera
24 viewing that you saw?

Page 89

1 A. The camera, the angle that I saw I believe
2 was directly overhead. So at one point in time they
3 were much closer and then they walked farther and
4 farther away in distance.

5 Q. Did you understand there to be a camera that
6 was in the ceiling just pointing down?

7 A. I believe it must have been on the wall
8 because you had a direct view of the hallway.

9 Q. The entire hallway?

10 A. Yes.

11 Q. In this one that we just saw, could you tell
12 whether or not Mr. Ciambriello had his hand, his
13 right hand around Heather Kiernan's body or waist?
14 Do you want me to play it again?

15 A. Yeah, could you please.

16 Q. Sure.

17 (Videotape being played.)

18 Q. Could you tell in this video the location of
19 his hands?

20 A. No.

21 Q. As you sit here today, do you have any
22 knowledge of the significance of that first scene
23 that we see which appears to be one of the doors in
24 the facility, what relevance that might have to this

23 (Pages 86 to 89)